

1
2
3
4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA

6 MARC OLIN LEVY

7 Plaintiff,

8 vs.

9 COMERICA BANK,

10 Defendant.
11 _____/

No. CV 12-01296 MEJ

ORDER DISMISSING CASE

12
13 On April 10, 2012, the Court granted Plaintiff's application to proceed in forma pauperis and
14 dismissed his complaint with leave to amend. Dkt. No. 6. The Court ordered Plaintiff to file any
15 amended complaint by May 8, 2012, and warned him that failure to file an amended complaint may
16 result in the dismissal of this case with prejudice. As Plaintiff failed to file an amended complaint,
17 the Court ordered him to show cause by June 28, 2012, why this case should not be dismissed for
18 failure to prosecute. Dkt. No. 7. The Court informed Plaintiff that it may dismiss the case if he
19 failed to file a responsive pleading. Plaintiff has failed to respond.

20 Under Federal Rule of Civil Procedure 41(b), failure to comply with a court order can
21 warrant dismissal. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). In “determining
22 whether to dismiss a case for failure to comply with a court order, the district court must weigh five
23 factors including ‘(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need
24 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
25 disposition of cases on their merits; and (5) the availability of less drastic alternatives.’” *Id.* at 1260-
26 61 (quoting *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986)). Here, Plaintiff failed to
27 comply with Court orders and deadlines, failed to respond to the order to show cause, and has made
28 no appearance in this matter since the Court dismissed his complaint with leave to amend. Thus, as

1 there is no pending complaint, the Court finds that the *Ferdik* factors weigh in favor of dismissal and
2 hereby DISMISSES this case WITHOUT PREJUDICE. The Clerk of Court shall close the file.

3 **IT IS SO ORDERED.**

4 Dated: July 3, 2012

5 
6 MARIA-ELENA JAMES
7 United States Magistrate Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MARC OLIN LEVY,
Plaintiff,

Case Number: CV12-1296 MEJ

v.

CERTIFICATE OF SERVICE

COMERICA et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 3, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Marc Olin Levy
505 Cypress Avenue, #205
South San Francisco, CA 94080

Dated: July 3, 2012

Richard W. Wieking, Clerk
By: Rose Maher, Deputy Clerk

United States District Court
For the Northern District of California